IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 24TH NOVEMBER, 2006 /3RD AGRAHAYANA,1928

WA.No. 2181 of 2006

(AGAINST THE JUDGEMENT IN WPC.12961/2006 Dated 23/08/2006)
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APPELLANT/PETITIONER:

VARGHESE T.P., S/O.PAILY,
THEKKEDATH MOOLAYIL HOUSE,
PIRAMADOM P.O., PAMPAKUDA,
MOOVATTUPUZHA.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.SABU SREEDHARAN

RESPONDENTS/RESPONDENTS:
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1. DISTRICT COLLECTOR, ERNAKULAM.

2. REVENUE DIVISIONAL OFFICER,
MOOVATTPUZHA.

3. MANI, S/O.PAILY,
THEKKEDATH MOOLAYIL HOUSE,
PIRAMADOM P.O., PAMPAKUDA, MOOVATTPUZHA.

4. THE SUB INSPECTOR OF POLICE,
RAMANGALAM POLICE STATION,
RAMANGALAM, ERNAKULAM DISTRICT.

R1 & R2 BY GOVT. PLEADER SRI.T.B.HOOD.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M. RAMACHANDRAN & A.K.BASHEER, JJ.

W.A.NO. 2181 OF 2006

Dated this the 24th day of November, 2006

J U D G M E N T

Ramachandran, J.

We had heard Sri.Nagaraj Narayanan as also Sri.Saji Kuriachan appearing for the parties. As pointed out by the learned Judge in judgment dated 23.08.2006, the fight was going on between the brothers in the matter of digging of a well. The appellant had been trying to frustrate the steps by every possible means and the learned Judge was justifiable in coming to such a conclusion, seeing the methodologies that are employed. It had been found that there was an earlier attempt to challenge the order and the writ petition had been withdrawn without reserving the rights and the second writ petition was therefore not maintainable.

2. Perhaps, the appellant had his own reasons to pursue the matter, but we do not think that the learned Judge had erred in appreciating the situation. We uphold the judgment in its entirety, but after hearing the respondents, we think, it may not be necessary to mulct the appellant herein with cost. This is because, the above should not be a bone of contention between the parties for continued litigation.

Therefore, the direction in the matter of payment of costs alone is vacated.

The writ appeal is dismissed.

M. Ramachandran, Judge

A.K.Basheer, Judge

Mbs/

M. RAMACHANDRAN &
A.K.BASHEER, JJ

W.P.(FC).NO. OF 200

J U D G M E N T

DATED: -11-2006